

31163-2.MTS.396412

RECEIVED
CENTRAL FAX CENTER
JUL 18 2006

REMARKS

In the Office Action dated April 18, 2006, claims 1-4 have been examined and are currently pending. Claims 1-4 were rejected in the Final Office Action as discussed below. Reconsideration of the present application is respectfully requested. This Amendment and Response is being filed after a Final Action under 37 C.F.R. § 1.114. Applicant believes that the amendment and the analysis and response presented herein shows that the claims are allowable and in condition for allowance.

Claims 1, 2, and 4 have been amended. No new matter has been added to this application.

A. Rejections Under 35 U.S.C. § 102

Claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,129,872 to Reiter. Applicant respectfully traverses.

In the "Response to Applicant's Arguments" section of the Office Action dated 4/18/2006, it was argued that Applicant amended "the claims to further insert a product by process clause relative to claims 1-4." Pg. 4-5. Applicant respectfully disagrees. As stated in the MPEP, "[a] product-by-process claim, which is a product claim that *defines the claimed product in terms of the process by which it is made*, is proper." MPEP 2173.05(p) [emphasis added]. Claims 1 and 2 as presented in Applicant's response dated 1/27/2006 *do not define* the claims in terms of the *process by which they are made*. Rather, claims 1 and 2 include limitations pertaining to *the use* of the claimed products. As such, claims 1 and 2 are not properly analyzed under a product-by-process framework.

Furthermore, in the "Response to Applicant's Arguments" section of the Office Action dated 4/18/2006, it was also alleged that "even if the Examiner takes into consideration the

Response to Final Office Action
Inventor: Yates
Attorney Docket No.: 31163-2 (formerly 31104-6)

31163-2.MTS.396412

specific product-by-process claims . . . , Reiter includes a third horizontal member or sliding member 13 that may discourage or prevent movement of a safety belt by a clamping connection . . .” Pg. 5. Applicant respectfully disagrees. Reiter discloses a connection whereby “prongs cooperate with the edge 31 of the end bar . . .” Reiter, pg. 2, col. 1, lines 10-11. Reiter does not disclose a “clamping action” between a third horizontal member and a first or second horizontal member, rather Reiter discloses a connection wherein tips of the prongs affix themselves to a safety belt web in a manner similar to mechanical stitching.

However, out of an abundance of caution and to further distinguish over the Reiter reference and place the application in condition for allowance, Applicant has amended claims 1 and 2 to specify “the third horizontal member having no prongs.” As will be appreciated, Reiter fails to disclose all elements of amended claims 1 and 2. Specifically, Reiter fails to disclose a “third horizontal member having no prongs” and instead discloses a third horizontal member having prongs. Applicant therefore respectfully submits that amended claims 1 and 2 are allowable in view of the references cited of record and requests withdrawal of the rejection of claims 1 and 2.

Claim 3 depends from claim 2 and therefore includes all of the elements of claim 2. It is therefore respectfully submitted that claim 3 is allowable over the cited references for at least the reasons recited above with respect to claim 2.

B. Rejections Under 35 U.S.C. § 103

Claim 4 was rejected under 35 U.S.C. § 103(a) over Reiter in view of prior art figure 2.

In the “Response to Applicant’s Arguments” section of the Office Action dated 4/18/2006, it was argued that Applicant amended “the claims to further insert a product by process clause relative to claims 1-4.” Pg. 4-5. Applicant respectfully disagrees. As stated in

Response to Final Office Action

Inventor: Yates

Attorney Docket No.: 31163-2 (formerly 31104-6)

31163-2,MTS.396412

the MPEP, “[a] product-by-process claim, which is a product claim that *defines the claimed product in terms of the process by which it is made*, is proper.” MPEP 2173.05(p) [emphasis added]. Claim 4 as presented in Applicant’s response dated 1/27/2006 *does not define* the claim in terms of the *process by which it is made*. Rather, claim 4 includes limitations pertaining to the *use* of the claimed product. As such, claim 4 is not properly analyzed under a product-by-process framework.

Furthermore, in the “Response to Applicant’s Arguments” section of the Office Action dated 4/18/2006, it was also alleged that “even if the Examiner takes into consideration the specific product-by-process claims . . . , Reiter includes a third horizontal member or sliding member 13 that may discourage or prevent movement of a safety belt by a clamping connection . . .” Pg. 5. Applicant respectfully disagrees. Reiter discloses a connection whereby “prongs cooperate with the edge 31 of the end bar . . .” Reiter, pg. 2, col. 1, lines 10-11. Reiter does not disclose a “clamping action” between a third horizontal member and a first or second horizontal member, rather Reiter discloses a connection wherein tips of the prongs affix themselves to a safety belt web in a manner similar to mechanical stitching.

However, out of an abundance of caution and to further distinguish over the Reiter reference and place the application in condition for allowance, Applicant has amended claim 4 to specify “the third horizontal member having no prongs.” As will be appreciated, Reiter fails to disclose all elements of amended claim 4. Specifically, Reiter fails to disclose a “third horizontal member having no prongs” and instead discloses a third horizontal member having prongs.

Applicant notes that with respect to FIG. 2, although third horizontal member has no prongs, the third horizontal member is non-movable, that is, it has no c-shaped ends that allow

Response to Final Office Action

Inventor: Yates

Attorney Docket No.: 31163-2 (formerly 31104-6)

31163-2.MTS.396412

the member to slide along first and second vertical members. Furthermore, there is no suggestion, motivation, or teaching in Reiter or in Applicant's discussion of FIG. 2 to configure a movable third horizontal member having no prongs such that movement alone of the third horizontal member is sufficient to discourage movement of the safety web. Applicant therefore respectfully submits that amended claim 4 is allowable in view of the references cited of record and requests withdrawal of the rejection of claim 4.

C. Conclusion

Applicant has amended claims 1, 2, and 4. Reconsideration of the present application as amended is respectfully requested.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede any basis for rejections or objections in the Office Action. Further, with regards to the various statements made in the Office Action concerning any prior art, the teachings of any prior art are to be interpreted under the law. Applicant makes no admissions as to any prior art. The remarks herein are provided simply to overcome the rejections and objections made in the Office Action in an expedient fashion.

The Examiner is invited to call the undersigned attorney to address any outstanding matters concerning the present Application.

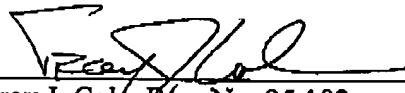
Response to Final Office Action

Inventor: Yates

Attorney Docket No.: 31163-2 (formerly 31104-6)

31163-2.MTS.396412

Respectfully submitted,

By 
Troy J. Cole, Reg. No. 35,102
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456
tjcole@uspatent.com

Response to Final Office Action

Inventor: Yates

Attorney Docket No.: 31163-2 (formerly 31104-6)